

PATENT
TH0681N (US)
DFH:EM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)	
)	
DAVID M. SINGLETON, LOUIS KRAVETZ,)	
BRENDAN D. MURRAY)	
)	
Serial No. 09/655,964)	Group Art Unit: 1796
)	
Filed September 6, 2000)	Examiner: Necholus Ogden Jr.
)	Patent Appeal Ctr. Specialist: L. Hilton
HIGHLY BRANCHED PRIMARY ALCOHOL)	April 30, 2008
COMPOSITIONS, AND BIODEGRADABLE)	
<u>DETERGENTS MADE THEREFROM</u>)	

COMMISSIONER FOR PATENTS
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

STATEMENT ACCOMPANYING CORRECTED APPEAL BRIEF

This paper and the enclosed corrected Appeal Brief are submitted in response to the Notification of Non-Compliant Brief of April 16, 2008. The correction requested by the USPTO with respect to the incorrect reference to WO 91/16409 in line 4 of page 4 has been made and a corrected page is enclosed herewith.

Respectfully submitted,

DAVID M. SINGLETON, LOUIS KRAVETZ,
and BRENDAN D. MURRAY

By /Donald F. Haas/
Their Attorney, Donald F. Haas
Registration No. 26,177
(713) 241-3356

P. O. Box 2463
Houston, Texas 77252-2463

Grounds of Rejection to be Reviewed on Appeal

The first ground of rejection to be reviewed upon this appeal is whether or not claims 1-4, 6-8, 12, 70, 72, 73, 75-77, 79, 81-89, 92-98, 101-109 presented upon appeal are obvious under Section 103(a) as being unpatentable over WO 91/16409.

The second ground of rejection to be reviewed upon this appeal is whether or not claims 1-4, 6-8, 12, 70, 72, 73, 75-77, 79, 81-89, 92-98, 101-109 presented herein are obvious under Section 103(a) in view of WO 85/02175.

Argument

Section 103(a) Rejection Based on WO 91/16409

The Examiner asserts that the claims are obvious in view of WO '409 because it teaches that the commercially available sulfate, Lial 125, is biodegradable and branched. The Examiner's position that in view of this and in absence of showing to the contrary, one of ordinary skill in the art would reasonably construe the sulfates of the reference to encompass the claimed sulfates. The Applicants submitted with the response of November 1, 2006 a first Declaration Under Rule 132 which contained data showing that a similar Lial product gave a much lower multisebum detergency than the branched fraction of a Neodol 45 alcohol sulfate. The Examiner held that the first Declaration "is not commensurate in scope with the claimed invention." The Examiner further stated that "Applicant claims a broad class of alkyl sulfate/ethoxy sulfate surfactants such as biodegradable sulfate" as described in claim 1, Applicant's most comprehensive claim but "the Declaration compares a very narrow and specific branched fraction Neodol 45 alkyl sulfate with the prior art alkyl sulfate." It is the Examiner's position that one of ordinary skill in the art would not have been able to determine the criticality of the showing in view of the Applicant's first Declaration not being commensurate in scope to the claimed invention.

The Applicants submitted with the response of July 16, 2007 a second Declaration Under Rule 132 from William Warren Schmidt to prove that the invention as claimed in the amended claims is nonobvious. This declaration describes experiments which were carried out with a Neodol 45 sulfate and sulfates of a C₁₄ branched alcohol and two different C₁₄₋₁₅ branched alcohols. All of the alcohols were prepared by skeletal isomerization of the described internal olefins according to the procedure described in Example 5 of the present application. Two of the sulfates had a branching index of 0.92 and 0.94 and the third had a branching index of 1.03. All have